

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON APPROPRIATIONS**

**Call to Order:** By **VICE CHAIRMAN CAROL C. JUNEAU**, on March 30, 2005 at 8:00 A.M., in Room 102 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Carol C. Juneau, Vice Chairman (D)  
Rep. Tim Callahan (D)  
Rep. Eve Franklin (D)  
Rep. Bill E. Glaser (R)  
Rep. Ray Hawk (R)  
Rep. Verdell Jackson (R)  
Rep. Joey Jayne (D)  
Rep. Christine Kaufmann (D)  
Rep. Ralph L. Lenhart (D)  
Rep. Walter McNutt (R)  
Rep. Penny Morgan (R)  
Rep. John L. Musgrove (D)  
Rep. Jon C. Sesso (D)  
Rep. Janna Taylor (R)  
Rep. Jack Wells (R)

**Members Excused:** Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Rep. John E. Witt, Vice Chairman (R)  
Rep. John Sinrud (R)

**Members Absent:** Rep. Cynthia Hiner (D)  
Rep. Rick Ripley (R)

**Staff Present:** Marcy McLean, Committee Secretary  
Jon Moe, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 35, 3/22/2005; SB 58, 3/22/2005;  
SB 30, 3/22/2005; SB 120,  
3/22/2005; SB 247, 3/22/2005; SB  
93, 3/22/2005

**HEARING ON SB 35****Opening Statement by Sponsor:**

**SEN. JOHN ESP, SD 31, Big Timber**, opened the hearing on **SB 35**, a bill to provide representation for indigent parents in child abuse and neglect cases. Section 1 of the bill states that if the State is involved in a proceeding where a child may be taken from their family, then the parent is entitled to counsel immediately. He said that this bill came out of an interim study done by the Children and Family Human Services Committee, and correlates to the big public defender bill, SB 146. Even though legal counsel is addressed in SB 146, he said that he is presenting SB 35 in case SB 146 does not pass. Some districts provide counsel immediately upon a petition being filed, but some do not. SB 35 would standardized that counsel is provided immediately, giving due process to families who are not well versed in the law.

**Proponents' Testimony:**

**Gordon Morris, Montana Association of Counties**, said that the Fiscal Note assumes that there will be an increase in the number of cases filed, and as a result, the increased costs are going to be \$209,000 per year. He pointed out that this issue is already a liability for the State, it is not something new. He asked the Committee to hold SB 35 until they know if SB 146 is going to pass.

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.3; Comments: Reps. Hiner and Ripley entered hearing.}*

**Kandi Matthews Jenkins, Montana families advocate**, submitted written testimony from Thomas Sylvester, Billings, where he said that providing counsel early in the process would save the State money. She said that the right to counsel is a fundamental right. Good counsel from the beginning of the process would decrease costs, because it would prevent long-term disputes.

**EXHIBIT**(aph67a01)

**Eric Schiedermayer, Montana Catholic Conference**, said that breaking up a family is serious business, and the State should take the utmost caution in doing so.

**Opponents' Testimony:** None

**Informational Testimony:**

**Chris Purcell, Child and Family Services**, said she was available to answer questions.

**Questions from Committee Members and Responses:**

**REP. TAYLOR** said that she thought this bill was a good idea and would save money; she asked where the savings would go. **SEN. ESP** said that the savings, if they do come, would be in different departments. The expenses for this program would be in the Public Defender's budget within the Supreme Court.

**REP. JACKSON** asked how SB 35 would change what the court currently does. **SEN. ESP** said that currently several district courts immediately appoint counsel in these types of cases. Page 9 Lines 3-4 of the bill states that all of the districts would follow that procedure.

**Closing by Sponsor:**

**SEN. ESP** said that SB 35 states that if both SB 146 and SB 35 pass, then SB 35 is void. Therefore, he asked the Committee to go ahead and pass SB 35.

**{Tape: 1; Side: A; Approx. Time Counter: 5.3 - 16.8}**

**HEARING ON SB 58****Opening Statement by Sponsor:**

**SEN. GREGORY BARKUS, SD 4, Kalispell**, opened the hearing on **SB 58**, a bill to revise state bond laws. The Legislative Audit Division requested SB 58, so that Montana law reflects current security industry practices. SB 58 would bring Montana's issuance of bonds in line with professional practice standards.

**Proponents' Testimony:**

**Steve Bender, Department of Administration (DOA)**, said that SB 58 has unanimous passage in the Senate. The purpose of the bill is to update codes and delete obsolete language. As an example, it would delete and 1957 law relative to the physical delivery of bonds. The sunset provision of long-range building program bonds has been deleted, which these bonds are now covered by general obligation bonds.

**Anna Miller, Department of Natural Resources and Conservation (DNRC)**, said that their department supports HB 58 because they want their bond anticipation notes to have a maturity greater than one year.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. MORGAN** asked why this is in Appropriations. **Jon Moe, Legislative Fiscal Division**, said it is here because bonding is a fiscal subject.

**Closing by Sponsor:**

**SEN. BARKUS** asked for a "do concur" motion.

**HEARING ON SB 30**

**Opening Statement by Sponsor:**

**SEN. JESSE LASLOVICH, SD 43, Anaconda**, opened the hearing on **SB 30**, a bill to improve criminal history information on qualifying offenses. He said that he would not go into detail, since it has already passed second reading in the House. He explained that the reason he did not sign the Fiscal Note was because his instinct from previous sessions was to not sign when it has a negative impact.

**Proponents' Testimony:**

**Pam Bucy, Department of Justice**, said that Montana allows, but does not require, the fingerprinting of misdemeanor offenses. Some of the misdemeanors are more serious than others, resulting in more serious penalties. SB 30 would require that fingerprints for these crimes be inputted into the criminal data base. She said that all law enforcement agencies support this bill. The Fiscal Note is for a .50 FTE to enter these additional cases into the data base.

**EXHIBIT** (aph67a02)

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. JAYNE** asked what misdemeanor crimes are covered in SB 30.

**Pam Bucy** listed them as DUI, DUI per se, stalking, partner or family member assault, and restraining order violation.

**{Tape: 1; Side: A; Approx. Time Counter: 16.8 - 32.6; Comments: End of Side A}**

**REP. JAYNE** said that she does not think the \$37,000 requested in the Fiscal Note is enough money. She asked where the additional funds would come from if the \$37,000 was not enough. **Pam Bucy** said that she did not agree because a lot of thought went into preparation of the Fiscal Note. **SEN. LASLOVICH** said if the funding was not adequate, then the DOJ would have to find money in their budget.

**Closing by Sponsor:**

**SEN. LASLOVICH** said that this is an important piece of legislation and requested a "do concur."

**{Tape: 1; Side: B; Approx. Time Counter: 0 - 5.4}**

**HEARING ON SB 247****Opening Statement by Sponsor:**

**SEN. JOHN BRUEGGEMAN, SD 6, Polson**, opened the hearing on **SB 247**, a bill to increase from 30% to 50% the amount of unexpended appropriation an agency may retain. This money could be carried over, at the discretion of the Governor's Budget Director, to the next biennium to be used by the agency. Even though the Fiscal Note states a \$700,000 biennium impact, it could be zero depending upon the will of the Budget Director. He said the intent of the bill is to make good managers become better managers. It allows them to plan over a longer period of time and gives them flexibility. As an example, money could be carried over to save for a long-term information technology project.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Informational Testimony:**

**Amy Sassano, Office of Budget and Program Planning**, said that the current 30% option, which allows agencies to carry forward funds from one fiscal year into the succeeding two fiscal years, works

well. Agencies are given the flexibility to cover unexpected situations or to address other needs within the scope of the agency. She said that it is unknown what the future fiscal impact will be to encourage agencies to control costs in anticipation of a larger carry forward amount. Although their office does not take a stand on this bill, she said that they believe the current statute gives agencies sufficient flexibility and encourages good money management.

**Questions from Committee Members and Responses:**

**REP. SESSO** asked why the chart on the Fiscal Note shows a decrease in the total, when the bill is requesting an increase in the carry-over amount from 30% to 50%. **SEN. BRUEGGEMAN** said that the \$348,000 reflected in the Fiscal Note is for the additional 20%.

**REP. SESSO** said that since the carry-over amount is not included in the agency's base budget, then when is it identified to the subcommittee establishing the agency's budget for the next biennium. **SEN. BRUEGGEMAN** explained that the carry-over amount is for continuation of appropriations for items that were in the last biennium.

**REP. MORGAN** said that she thought this money belonged to the State, not to the agencies for their use. She asked why the State should allow this carry-over of funds. Her preference is for the agencies to revert this money back to the State and then make a future request for money. **SEN. BRUEGGEMAN** said that it encourages them to create savings for future projects. He said that this money has already been appropriated to these agencies, and this law encourages them to do some savings. The agency still has to come back to the legislature and justify their budget, because the carry-over amount is not added to their base for the next biennium.

**REP. JACKSON** said he assumes this carry-over does not apply to school districts. **SEN. BRUEGGEMAN** said that Page 2 Section 4 of the bill says that the carry-over only applies to money for very specific overhead issues, which should not affect schools.

**REP. JAYNE** asked if agencies requested a need for this legislation. **SEN. BRUEGGEMAN** said that the DOJ is a proponent of this bill because it would help them to manage their funds.

**REP. TAYLOR** asked if the carry-over amount comes out of an agency's base. **Amy Sassano** said the base is calculated by the amount of money the agency spent. If any of their funds have

been carried over, they are not included in the next biennium's base.

**REP. FRANKLIN** said that she thought the carry-over has the potential to change the money management culture within agencies. She thought it would bring about a heightened awareness in the future use of carry-over savings. She said she could envision a new column entitled "Carry Forwards", when subcommittees are working with agencies on their budgets. **REP. BRUEGGEMAN** said that it heightens the awareness of both the legislature and the agencies, bringing them together as better partners. It could result in both more General Fund reversions and additional funds for the agencies. The current 30% carry-over law has not produced much in the way of reversions; the additional 20% could only amount to an additional \$700,000.

**{Tape: 1; Side: B; Approx. Time Counter: 5.4 - 32.6; Comments: End of Tape 1}**

**Closing by Sponsor:**

**SEN. BRUEGGEMAN** said that the carry-over feature does not involve large dollar amounts, but has resulted in increases to the General Fund. He said that by increasing the allowable amount to 50%, the State is telling agencies that they are willing to work with them and give them a bigger stake in the management of their budgets.

**{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.1}**

**HEARING ON SB 93**

**Opening Statement by Sponsor:**

**SEN. JOHN COBB, SD 9, Augusta,** opened the hearing on **SB 93**, a bill to require monthly Medicaid reports to Legislative Finance Committee by the Department of Public Health and Human Services (DPHHS). He said that the Legislative Finance Committee requested this bill. Currently, the process is for the DPHHS to provide this information whenever they are able to estimate the Medicaid expenditures. There has been a communication problem in getting this information to the Legislative Fiscal Analysts Office, especially when they are working on the budget process. The bill states that the DPHHS will give these monthly reports to the Fiscal Analysts Office beginning November 15 through to June 15th. He said that DPHHS has not objected to this bill.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. WELLS** asked if the monthly reporting will add to the DPHHS' expenses. **SEN. COBB** said that the department is already preparing the monthly reports, and this would just clarify when it must be given to the Fiscal Analysts Office. The past conflict came with the Fiscal Analysts not receiving the information in time to make accurate budget projections.

**Closing by Sponsor:**

**SEN. COBB** said that he would provide doughnuts for any Representative that would carry this bill for him.

**HEARING ON SB 120****Opening Statement by Sponsor:**

**SEN. BOB KEENAN, SD 5, Bigfork,** opened the hearing on **SB 120**, a bill to extend the utilization fee on hospitals for inpatient bed days. He said that SB 120 continues for two more years a successful program to continue the fees for securing Medicaid matching funds. The fees are used to cover the gap in the hospital's actual costs for provided these services and what they receive in Medicaid reimbursement. He said that if this bill fails, then the 446,000 bed days in Montana would increase by \$69 per day. The fee would generate about \$60 million in income.

**Proponents' Testimony:**

**Jack King, Benefis Healthcare Great Falls, North Central Montana Healthcare Alliance,** said that Benefis is the largest Medicaid provider in Montana, accounting for 20% of the total. The \$4 million they receive from this program allows them to come much closer to covering their expenses, thereby not having to shift the costs to other patients. He said the loss of these funds would cause Benefis to increase the cost of care to other patients, resulting in increased insurance premiums and/or reducing the amount of resources available for low-income Montanans. These funds are critical for small community hospitals.

The cost of the fee is not passed on to the patient, but total costs of healthcare are spread to the rest of the patients. The funds from this program reduce the amount of loss on the cost of the healthcare provided to Medicaid patients. Therefore, there is an increase in the amount of resources available for low income, uninsured and charity care. He emphasized that SB 120



does not require any additional General Fund dollars for Medicaid and does not result in higher costs to consumers. The national Medicaid program provides critical support to many Montanans.

**EXHIBIT (aph67a03)**

**James Kiser, St. James Hospital Butte**, said that 40% of their citizens are at 200% of the federal poverty level, and St. James is approaching \$8 million in uncompensated care in this fiscal year. Two and a half years ago, 4% of their budget went towards uncompensated care, but now that has increased to 10%. He said that uninsured and under-insured volumes continue to increase. SB 120 is a win-win solution, because it helps to care for citizens who are poor and vulnerable, while also helping to continue the viability of healthcare. It is a private/public endeavor that uses private hospital funds to secure matching federal funds.

**Jani McCall, Deaconess Billings Clinic (DBC)**, said that 25% of DBC's Medicaid discharges are related to their psychiatric unit, an area where they lose \$3.5 million per year. In addition, one-third of the births at DBC are Medicaid, and 20% of those result in complications. In 2003 they saw a 2% increase in the uninsured and Medicaid patients. In the past two years that the hospital fee has been in place, they saw a 46% increase in their charity care, assisting 4,370 patients at a cost of \$16.4 million.

**Tom Ebzery, St. Vincents Healthcare, Holy Rosary Healthcare, Wheatland Memorial Hospital**, explained that the original bill had a two-year sunset because they wanted to make sure that it would work, and to make sure that the federal government would approve it. Now the program has been approved by the feds and the program has worked. He pointed out that the bill states that hospitals cannot put this fee on a patient's bill. Smaller hospitals are relying desperately on this legislation.

**Mona Jamison, Shodair Hospital**, said that 93% of their patients are Medicaid and come from across Montana. Their uncompensated care exceeded over \$1 million per year for the past 18 years until this provider tax was enacted. Shodair has been supported by its foundation over the years, but since more support was needed due to Medicaid not paying for all of the costs, the foundation's funds have become depleted. The passage of the utilization fee during the last session enabled Shodair to maintain its level of services to Montana's children. They view the program as a way for Montana to get their federal tax dollars back to help children.

**EXHIBIT (aph67a04)**

**Bob Olsen, Montana Hospital Association (MHA)**, said that MHA, DPHHS and the Governor's Office worked together to craft this bill. Throughout the 1990s, Medicaid reimbursements to hospitals were created several times. This project serves as an example of what can be accomplished when private industry and government come together to solve a common problem. Under this legislation, the hospitals produced \$8 million in fees to DPHHS, and in return, with matching federal funds, the department was able to return \$30 million to the hospitals. He said that Montana has followed all state and federal statutes for the proper use of these funds.

**EXHIBIT** (aph67a05)

*{Tape: 2; Side: A; Approx. Time Counter: 3.1 - 31.6}*

**Opponents' Testimony:** None

**Informational Testimony:**

**Chuck Hunter, DPHHS**, said that hospital taxes are used in 21 other states, with 34 states having taxes based upon hospital bed fees.

*{Tape: 2; Side: A; Approx. Time Counter: 31.6 - 32.6; Comments: End of Side A, Tape 2}*

**EXHIBIT** (aph67a06)

He explained that in 2004, hospitals' Medicaid costs were \$101.8 million and their reimbursement from the State was \$76.3 million. The difference in the two is partially covered by this hospital user fee.

**Questions from Committee Members and Responses:**

**REP. SESSO** asked why the fee is being raised to \$29, then goes back to \$27.70. **Bob Olsen** said the fee was initially calculated to meet the anticipated difference in Medicaid costs and reimbursements. The first year's fees were high because they needed to raise a year's worth of fees in only six months. SB 120 sets the fee for the remaining six months of this year at \$29.75 in order to get enough money for the year, then drops it to \$27.70 for the second year. If SB 120 is passed, they will not need to constantly adjust these fees because they will have accurate data to set the fee for the full year.

**REP. WELLS** asked if the Governor supports this user fee. **Chuck Hunter** said he had a discussion with the Governor's Budget Office today, where he was asked to appear as an information witness. **Bob Olsen** said that they worked with the Martz Administration to draft the original bill.

**REP. WELLS** said that Governor Schweitzer's budget proposes 1% more funding for hospitals in FY06, and asked if SB 120 is a part of the Governor's budget. **Bob Olsen** said that the 1% funding in the Governor's budget comes from the I-149 tobacco tax money, and is reflected in HB 2. He said that the money generated from SB 120 is also in HB 2.

**{Tape: 2; Side: B; Approx. Time Counter: 0 - 11.6}**

**REP. LENHART** asked how SB 120 affects the Glendive Medical Center. **Scott Duke, CEO, Glendive Medical Center**, said that it is vitally important to them. In 2004, without the support of the fees, they would have incurred a loss of \$147,000. He pointed out that they are the only medical center east of Billings that offers behavioral health services; it is a service that there is a higher percentage of Medicaid beneficiaries. That service, and others, could be in jeopardy if they did not have this additional funding. Last year they provided \$575,000 in uncompensated care to their local community, which without the funding from SB 120, they may not have been able to provide.

**REP. SESSO** asked what the impact would be on the budget cap. **Jon Moe** said that as a state special expenditure it will affect the cap, but it is already included in the calculation because it is in HB 2. **SEN. KEENAN** said that the new money in this bill, over the current base, is \$8 million.

**Closing by Sponsor:**

**SEN. KEENAN** said that this program has been working very well.

**ADJOURNMENT**

Adjournment: 10:10 A.M.

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REP. ROSALIE (ROSIE) BUZZAS, Chairman

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MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

**EXHIBIT ([aph67aad0.TIF](#))**